

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RONNIE CANTY; JOHNNY COOK;)	
BETTY FAMBROUGH; REGINALD)	
CONQUEST, JR.; JAPRONICA)	
FAMBROUGH, as natural guardian)	CIVIL ACTION
of AKEMI A. FAMBROUGH-)	FILE NO. _____
HOLLOWAY; TYANCA FAMBROUGH,)	[On removal from the State
individually and as parent and natural)	Court of DeKalb County,
guardian of JUSTIN GARDNER;)	Georgia, Civil Action
TERRELL FAMBROUGH; TIAMIYA)	File No. 23A00618.]
FAMBROUGH; TYLA FAMBROUGH,)	
Individually and as parent and natural)	
Guardian of ANDONIS FAMBROUGH;)	
)	
)	
Plaintiffs,)	
)	
v.)	
)	
TODD DANIELS; DIMENSIONALL)	
TRANSPORTATION, LLC; AMERICAN)	
ZURICH INSURANCE COMPANY;)	
JOHN DOE 1-2; ABC CORP.; XYZ)	
CORP.;)	
)	
Defendants.)	
)	

NOTICE OF REMOVAL

ZURICH AMERICAN INSURANCE COMPANY, improperly named herein
as “American Zurich Insurance Company” (“Zurich”), Defendant in the above-

styled civil action, hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446 within the time prescribed by law, respectfully showing this Court as follows:

1.

On February 8, 2023, Plaintiffs, by and through counsel, filed a complaint against Zurich in the State Court of DeKalb County, Georgia, styled as *Ronnie Canty, et al., v. Todd Daniels, et al.*, and assigned Civil Action File No. 23A00618 (“State Court Action”). True and accurate copies of all filings to date in the State Court Action are collectively attached hereto as **Exhibit “A.”**

2.

The complaint and summons in the State Court Action were served upon Zurich on February 9, 2023. This Notice of Removal is filed within thirty days of February 9, 2023, the date upon which Zurich received the complaint and notice of the subject lawsuit. This Notice of Removal is also filed within one year of the commencement of the action. Thus, removal is timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, embraces DeKalb County, Georgia. Thus, removal to this Court is proper under 28 U.S.C. § 1441(a).

4.

Pursuant to 28 U.S.C. § 1446(d), promptly upon the filing of this Notice of Removal, Zurich will contemporaneously herewith give written notice to Plaintiffs by notifying their attorneys of record, Robert L. Poston, Esq., of The Angell Law Firm, LLC, and will file a copy of this Notice of Removal with the Clerk of State Court of DeKalb County, which shall effectuate the removal.

DIVERSITY JURISDICTION

5.

The United States District Court for the Northern District of Georgia, Atlanta Division, possesses diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

6.

Plaintiffs are residents and domiciliaries of the State of Georgia at the time of this removal, and Plaintiffs were residents and domiciliaries of the State of Georgia on the date that the complaint was filed in the State Court Action. Further, at all relevant times, Plaintiffs have had the intention to remain and live in the State of

Georgia as residents and domiciliaries of the same. Thus, Plaintiffs are citizens of the State of Georgia.

7.

Zurich is a corporation organized under the laws of the State of New York, with its principal place of business in the State of Illinois. Thus, Zurich is not a citizen of the State of Georgia at the time of this removal, and it was not a citizen of the State of Georgia at the time of the commencement of the State Court Action.

8.

Defendant Dimensionall Transportation LLC (“Dimensionall”) is a foreign limited liability company organized and existing under the laws of the State of Michigan, with its principal place of business in the State of Michigan. Defendant Dimensionall’s sole member and manager is Robert Perkins. Robert Perkins is a resident and domiciliary of the State of Michigan at the time of this removal, and Robert Perkins was a resident and domicilliary of the State of Michigan on the date that the complaint was filed in the State Court Action. Further, at all relevant times, Robert Perkins has had the intention to remain and live in the State of Michigan as

a resident and domiciliary of the same. Thus, Defendant Dimensionall is a citizen of the State of Michigan.

9.

Defendant Todd Daniels is a resident and domiciliary of the State of Kentucky at the time of this removal, and Todd Daniels was a resident and domiciliary of the State of Kentucky on the date that the complaint was filed in the State Court Action. Further, at all relevant times, Todd Daniels has had the intention to remain and live in the State of Kentucky as a resident and domiciliary of the same. Thus, Defendant Todd Daniels is a citizen of the State of Kentucky.

10.

The citizenship of any alleged “John Doe,” “ABC Corp.,” or “XYZ Corp.” shall not, and does not, affect the diversity jurisdiction analysis of this Court. *See, e.g.*, 28 U.S.C. § 1441(b) (“In determining whether a civil action is removable on the basis of [diversity] jurisdiction . . . , the citizenship of defendants sued under fictitious names shall be disregarded.”).

11.

Accordingly, because Plaintiffs and Defendants are citizens of different States, complete diversity exists between Plaintiffs and Defendants in accordance with 28 U.S.C. § 1332(a)(1).

12.

In their complaint, Plaintiffs seek a recovery for, *inter alia*, personal injuries allegedly sustained in a motor vehicle accident that occurred in DeKalb County, Georgia on or about September 10, 2022. *See, generally*, [Doc. No. 1-1] (Complaint). In addition to general and punitive damages, Plaintiffs allege special damages in the total amount of \$121,207.16. [Doc. No. 1-1], at ¶ 28. Plaintiffs further allege that each Defendant is jointly and severally liable for their special damages, and that Zurich must be held to pay any said judgment as a motor carrier insurer under a policy of liability insurance. *See* [Doc. No. 1-1], at ¶¶ 20-25; *accord Hi-Tech Pharm., Inc. v. S&S Enterprises, Inc.*, 2008 WL 11334023, at *6 (N.D. Ga. Sept. 30, 2008) (“[C]laims against multiple defendants can be aggregated where it is alleged that the defendants are jointly liable.”); *see also Jewell v. Grain Dealers Mut. Ins. Co.*, 290 F.2d 11, 13 (5th Cir. 1961) (same). Accordingly, as per the face of the complaint, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a).

13.

In light of the foregoing, this Court has subject matter jurisdiction over this matter in accordance with 28 U.S.C. § 1332(a).

14.

Venue is proper in this Court for purposes of removal under 28 U.S.C. § 1441(a). By filing this Notice of Removal, Zurich does not waive any of its jurisdictional objections or affirmative defenses.

15.

Even though Defendant Dimensionall has not been served with process and the deadline for Defendant Daniels to file his response to Plaintiffs' Complaint is not due as of the date of the filing of this Notice of Removal, said Defendants have indicated through counsel that they **CONSENT** to this removal. *See, e.g.*, 28 U.S.C. § 1446(b)(2)(A).

WHEREFORE, Zurich respectfully prays that this action proceed in this Court as an action properly removed pursuant to 28 U.S.C. § 1446, and that no further proceedings be had in said case in the State Court of DeKalb County, Georgia.

Respectfully submitted this 13th day of March, 2023.

**SWIFT, CURRIE, McGHEE & HIERS,
LLP**

/s/ M. Brandon Howard

Stephen M. Schatz

Georgia Bar No. 628840

M. Brandon Howard

Georgia Bar No. 550524

***Attorneys for Zurich American Insurance
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LOCAL RULE 5.1C CERTIFICATION

By signature below, counsel certifies that the foregoing pleading was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1C.

Respectfully submitted this 13th day of March, 2023.

**SWIFT, CURRIE, McGHEE & HIERS,
LLP**

/s/ M. Brandon Howard

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Georgia Bar No. 628840

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CERTIFICATE OF SERVICE

This is to certify that this day I have electronically filed this ***NOTICE OF REMOVAL*** with the Clerk of Court by e-filing same using the CM/ECF System, which will automatically send e-mail notification of said filing to the following attorneys of record:

Robert L. Poston, Esq.
The Angell Law Firm, LLC
3391 Peachtree Road, NE
Suite 110
Atlanta, Georgia 30326
ecf@atlantalaawyer.com
Attorney for Plaintiffs

Respectfully submitted this 13th day of March, 2023.

**SWIFT, CURRIE, McGHEE & HIERS,
LLP**

/s/ M. Brandon Howard
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